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LAW SECRETARIAT

NOTIFICATION

No. Rl. 398/Legis. 16-46-1, Dated Camp Mysore, 29th September 1946.

In exercise of the powers conferred by section 2 of the Defence of India Act, 1939 (XXXV of 1939), as applied to Mysore, the Government of His Highness the Maharaja are pleased to direct that the following further amendment shall be made in the Defence of India Rules in force in Mysore, namely :—

For Rule 81A of the said Rules the following Rule shall be substituted, namely :—

Avoidance of strikes and lock-outs.

"81-A (1) If in the opinion of the Central Government, it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, the Central Government may, by general

or special order, applying generally or to any specified area, make provisions—

(*a*) for prohibiting, subject to the provisions of the order, a strike or lock-out in connection with any trade dispute;

(*b*) for requiring employers, workmen or both to observe for such period as may be specified in the order such terms and conditions of employment as may be determined in accordance with the order;

(*c*) for referring any trade dispute for conciliation or adjudication in the manner provided in the order;

(*d*) for enforcing for such period as may be specified in the order all or any of the decisions of the authority to which a trade dispute had been referred for adjudication;

(*e*) for any incidental and supplementary matters which appear to the Central Government necessary or expedient for the purpose of the orders;

Provided that no order made under clause (*b*)—

(i) shall require an employer to observe terms and conditions of employment less favourable to the workmen than those which were applicable to them at any time within three months preceding the date of the order;

(ii) where a trade dispute is referred for adjudication under clause (*c*), shall be enforced after the decision of the adjudicating authority is announced by, or with the consent of, the Central Government.

(1A) Where a trade dispute referred for adjudication under clause (*c*) of sub-rule (1) has arisen only in a particular undertaking or group of undertakings, the Central Government may include in the adjudication proceedings any other undertaking either on its own initiative or on an application received in this behalf, whether a trade dispute exists at the time in that undertaking or not, provided that the Central Government is satisfied—

(*a*) that the undertaking to be so included is engaged in the same type of industry or business as

the undertaking or the group of undertakings in which the trade dispute referred for adjudication has arisen; and

(*b*) that the inclusion of the undertaking in the adjudication proceedings will not materially delay the award; and

(*c*) that the issues involved in the trade dispute referred for adjudication have already given rise, or are such as, in the circumstances, may be reasonably be expected to give rise to a similar dispute in the undertaking to be so included.

(1B) Where an undertaking has been included in adjudication proceedings under sub-rule (1A) the provisions of this rule and of any order or award made thereunder shall (save as may be expressly provided to the contrary in any such order or award) apply to and in relation to such undertaking as they apply to and in relation to any undertaking or group of undertakings in which the trade dispute referred for adjudication has arisen.

(2) Unless any such order makes express provision to the contrary, nothing therein shall affect the power to refer any trade dispute or matter connected therewith for report or settlement under the Trade Disputes Act, 1929.

(3) Nothing in the Arbitration Act, 1940, shall apply to any proceedings under any such order.

(3A) An order made under sub-rule (1) referring a trade dispute for adjudication shall specify as far as may be practicable the matters upon which adjudication is necessary or desirable:—

Provided that—

(i) the Central Government may of its own motion or at the instance of any adjudicating authority add to, amend or vary the matters so specified;

(ii) the Central Government may, with a view to specify the said matters, direct the adjudicating authority to make a preliminary enquiry into the nature of the dispute, and postpone specification for such time as may be reasonably required.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(5) In this rule the expressions "employer", "lock-out", "strike", "trade dispute" and "workmen" shall have the meanings respectively assigned to them in section 2 of the Trade Disputes Act, 1929 (VII of 1929), subject to the modification that the references to "trade or industry" in the definitions of "strike" and "workman" in the said section shall be construed as including the performance of its functions by a local authority."

By Order,

S. KANAKARATNARAJ,
Legal Remembrancer and
Secretary to Government,
Law Department.

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